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RUEHZL/EUROPEAN POLITICAL COLLECTIVE IMMEDIATE
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C O N F I D E N T I A L SECTION 01 OF 02 USUN NEW YORK 000103

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TAGS: [PREL](#) [PTER](#) [UNSC](#) [SY](#) [LE](#)

SUBJECT: LEBANON TRIBUNAL: CURRENT DONORS TO TRIBUNAL
DISCUSS OPTIONS ON MANAGEMENT COMMITTEE DECISION MAKING

REF: A. STATE 10709

[1](#)B. IO-USUN EMAIL (REINEMEYER/WILCOX-01/25/08)

[1](#)C. USUN 79

Classified By: Carolyn L. Willson, Minister Counselor for Legal Affairs
, for reasons 1.4(b) and (d).

[1](#)1. (C) BEGIN SUMMARY: Seeking to resolve differences over how the Management Committee for the Special Tribunal for Lebanon will reach decisions so the Committee can be established and make key decisions needed to bring the Tribunal into operation, USUN has met counterparts over the past week from the "founding members'" missions (UK, Germany, France, Netherlands, and Lebanon), at both the ambassadorial and experts' level, to present alternatives set forth in refs A and B. Based on these discussions, and given the overriding imperative to establish the Committee, USUN believes the only viable option to reach agreement this week is to proceed along the lines of Option D in reftel, under which the UK, Germany, France, Netherlands, and the U.S. would enter into a side letter committing themselves to vote together on Committee decisions (see para 5). END SUMMARY.

[1](#)2. (C) The UK, France, Germany, and the Netherlands have advised USUN that they might/might accept options A and B in reftel (reluctantly) if Lebanon could support those options, but they prefer option D, under which the U.S., Netherlands, Germany, France, and UK would enter into a "side letter" committing themselves to vote together in the Management Committee. Their views are based on the concern, also shared by the Lebanese, that options A and B would create a two-tier system of donors (those with effective veto rights and those without) which would give reluctant donors a pretext to delay or cancel their contributions. As for Option C, by which the Terms of Reference for the Committee would stipulate that "all budgetary matters" require the consensus of the voluntary contributors who are founding members of the Management Committee, they argue that it could be difficult for the Committee to decide whether a particular decision implicated budgetary matters. Moreover, they point out that excluding decisions about membership in the Committee (which they suggest would not be a "budgetary" decision) from the requirement for consensus could mean that membership is expanded beyond what the U.S. could support.

[1](#)3. (C) The Lebanese Mission, on instructions from Beirut, has repeatedly and clearly rejected options A and B. On January 31 and February 1, Lebanese Amb. Salam objected to compromise formulations for the Management Committee's Terms of Reference (per refs A and B) that would distinguish among the original voluntary contributors and others. Lebanese PR Salam said the Terms of Reference for the Management Committee should not establish a "two-tier" system by giving the original voluntary contributors of the Committee a different -- and greater -- role in decision making than

other members. Doing so would dissuade states from contributing to the Tribunal and serving on the Committee, he argued. After much discussion, he indicated Lebanon could accept a proposal for the Committee to make decisions by vote of a two-thirds (or other super majority) and could accept having the founding members other than Lebanon enter into a side letter, under which signatories would commit themselves to vote together in the Committee.

14. (C) In order to meet the U.S. objective to set up the Tribunal as quickly as possible, and to ensure that the Management Committee is established before potentially obstructionist countries (e.g. Russia or other Arab states) seek to join in order to secure an effective veto over the tribunal themselves, USUN plans to proceed on the basis of option D of ref A. This option ensures that U.S. funds will not be spent over the objection of the USG, protects against a country joining the Committee only to seek later on to use its membership to obstruct the work of the tribunal, and safeguards against the risk that a future Lebanese Government could change its view of the tribunal and seek to obstruct its work. Accepting this option involves including language in the Terms of Reference for the Management Committee under which decisions would be reached on the basis of consensus "to the greatest extent possible" but by a two-third majority if consensus were not reached. The UK, France, Germany, the Netherlands, and the U.S. would then enter into a side letter along the following lines:

BEGIN TEXT:

The representatives of the governments of France, Germany, the Netherlands, the United Kingdom, and the United States of America are pleased that Terms of Reference for the Management Committee for the Special Tribunal for Lebanon

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have been completed, and look to the Management Committee to play an important role in the efforts of the Tribunal to operate efficiently, effectively, and accountable. On instructions from their governments, they commit to achieve consensus among themselves on a common position for all decisions before the Management Committee and to cast their votes accordingly. They highlight the importance of supporting the Secretary-General's efforts for the establishment of the Tribunal in a timely manner, as a means to put an end to impunity and deter further assassinations in Lebanon.

END TEXT.

The side letter would be made available to Lebanese, as well as to any state seeking to join the Management Committee, upon request.

KHALILZAD